

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON**

JOHN EDWARD BETTYS,

Plaintiff,

v.

STATE OF WASHINGTON, et al.

Defendants.

Civil Action No. 23-5838-BJR-TLF

**ORDER ADOPTING THE REPORT AND
RECOMMENDATION**

Having reviewed the Report and Recommendation of the assigned United States Magistrate Judge and the record of the case, and no objections having been filed, the Court finds and ORDERS:

- (1) The Court ADOPTS the Report and Recommendation in its entirety.
- (2) Defendants' motion to dismiss is granted in part and denied in part in accordance with the recommendations in the Report and Recommendation as follows:

Claim One

- a. Plaintiff's Title III ADA claims are dismissed with prejudice;
- b. Plaintiff's Title II ADA/RA individual capacity claims brought against Defendants McFarlane, Candella, Yockey, Guien, Haven, Anderson, and Lowe are dismissed with prejudice;
- c. The motion is denied as to Plaintiff's Title II ADA/RA claims against the State of Washington and DSHS;

Claim Two

a. Plaintiff's Fourteenth Amendment substantive due process claims challenging the SCC restrictions on smoking and purchasing video game consoles are dismissed with prejudice;

b. Plaintiff's remaining Fourteenth Amendment claims challenging his medical care, the limitations on the ability to make purchases, fundraise, seek exceptions to the vendor policy, use an "inner library loan system", provide unlimited funds in a single transaction, sell crafts, operate a business, shop at Amazon and Walmart, and open an outside bank account are dismissed without prejudice with leave to amend;

Claim Three

a. Plaintiff's FLSA claims are dismissed with prejudice;

b. Plaintiff's Fourteenth Amendment Equal Protection claims related to wages are dismissed without prejudice with leave to amend;

Claim Four

a. Plaintiff's First Amendment claims regarding the media policy are dismissed without prejudice with leave to amend;

Claim Five

a. Plaintiff's First Amendment retaliation claims are dismissed without prejudice with leave to amend;

Claim Six

a. Plaintiff's Fourteenth Amendment claim based on the alleged denial of therapeutic care is dismissed without prejudice with leave to amend;

Claim Seven

a. Defendants' motion to dismiss Plaintiff's ADA/RA claims against the State of Washington is denied;

b. Defendants' motion to dismiss Plaintiff's official capacity claims against Defendant Anderson is denied;

c. Defendants' motion to dismiss "SCC Ombudsman" is denied;

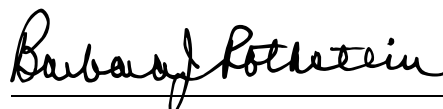
d. Defendants' motion to dismiss Plaintiff's official capacity claims brought under the ADA/RA is denied;

e. To the extent that Plaintiff's 42 U.S.C. § 1983 claims seek damages or other retrospective relief against state officials acting in their official capacities, these claims are barred by the Eleventh Amendment and Defendants' motion is granted as to those claims; and

f. To the extent that Plaintiff's § 1983 claims seek prospective injunctive or declaratory relief against state officials acting in their official capacities, Defendants' motion to dismiss these claims is denied

(3) The Clerk is directed to send copies of this Order to Plaintiff.

Dated this 21st day of August 2024.

A handwritten signature in black ink, reading "Barbara Jacobs Rothstein", written over a horizontal line.

Barbara Jacobs Rothstein
U.S. District Court Judge